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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,307

05/15/2006

Candido Bruto

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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH, FL 33402-3188

EXAMINER

PAPAPIETRO, JACQUELINE M

ART UNIT

PAPER NUMBER

3739

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/551,307	BRUTO, CANDIDO	
	Examiner	Art Unit	
	Jacqueline Papapietro	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005 and 15 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>28 September 2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: The recitation "has not reached homes yet, but to a minimum extent" on line 14 of page 1 does not make sense. The recitation "the high cost of these apparatuses possess" on lines 15-16 of page 1 is grammatically incorrect. The recitation "Figure 1 two in number" on lines 25-26 of page 3 does not make sense.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

Claims 2, 7-9, 12, 14-16, and 18-20 are objected to because of the following informalities: Claims 2, 7-9, 12, 14-16, and 18-19 recite "the mobile shutter." There is a lack of proper antecedent basis. It is suggested that the Applicant replaces these occurrences with "the at least one mobile shutter." Claim 20 recites "plurality of support feet" in line 4 of the claim. There is a lack of an article and a conjunction. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10, 13, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant recites, "wherein it comprises" in line 2 of claim 1. It is unclear to what "it" is meant to refer.

Regarding claims 6 and 13, the word "means" is preceded by the word(s) "attachment" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claims 10 and 17, the word "means" is preceded by the word(s) "table-top support" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 8-10, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolff (US 4287554).

Regarding claim 1, Wolff discloses a tanning lamp including a panel (10) and a UV radiation source (20) mounted on the panel, wherein it comprises at least one mobile shutter (16b and 17b) associated with the panel for a temporary masking of the UV radiation source (Fig 6).

Regarding claim 2, Wolff discloses the tanning lamp further comprising a mirror-like reflecting wall associated with the mobile shutter at an outer surface thereof, with which it substantially constitutes a single piece (column 10 lines 19-21 and 28-29).

Regarding claim 3, Wolff discloses the tanning lamp wherein the panel (10) is a box-type body, defining a space in which the UV radiation source is housed (Fig 1).

Regarding claim 4, Wolff discloses the tanning lamp according to claim 3, wherein the box-type body is shaped as a flat parallelepiped (column 6 lines 37-38) with a rectangular section comprising a rear wall (13), a first (14) and respectively second (11) side wall, a top wall (15) and a bottom wall (12).

Regarding claim 6, Wolff discloses the tanning lamp according to claim 4 further comprising fastening or attachment means (hinges 110b and 120b) associated with the rear wall of the box-type body.

Regarding claim 8, Wolff discloses the tanning lamp according to claim 1, wherein the mobile shutter comprises two mobile half-shutters (Fig 6, 16c and 17c).

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Regarding claim 9, Wolff discloses the tanning lamp according to claim 1 wherein at least a portion of the UV radiation source is left permanently uncovered by, or visible through, the mobile shutter, which is accomplished by the ventilation slots (60).

Regarding claim 10, Wolff discloses the tanning lamp according to claim 1 further comprising table-top support means (50, column 2 lines 24-26).

Regarding claim 18, Wolff discloses a tanning lamp including: a panel (10); a UV radiation source mounted on the panel (20); at least one mobile shutter associated with the panel (16b and 17b), wherein at least a portion of the UV radiation source is left permanently uncovered by, or visible through, the mobile shutter. The light would inherently remain visible through the slots (60) or through the cracks in the hinges or between panels 16b and 17b.

Regarding claim 19, Wolff discloses the tanning lamp according to claim 18, further comprising a mirror-like reflecting wall associated with the mobile shutter at an outer surface thereof, with which it substantially constitutes a single piece (column 10 lines 28-29).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5, 7, 11-17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolff in view of Grzesnikowski (US 4313586).

Regarding claims 5, 11-13, and 15-17, Wolff discloses the tanning lamp according to claim 4, as described above, further comprising a plurality of support feet (50) associated with the bottom wall (12) of the box-type body (Fig1) further comprising fastening or attachment means (hinges 110b and 120b) associated with the rear wall of the box-type body (Fig 5); further comprising a mirror-like reflecting wall associated with the mobile shutter at an outer surface thereof, with which is substantially constitutes a single piece (column 10 lines 28-29); wherein the mobile shutter comprises two mobile half shutters (16c and 17c); wherein at least a portion of the UV radiation source is left permanently uncovered by, or visible through, the mobile shutter (as applied to claim 18, above); and further comprising table-top support means (50 and column 2 lines 24-26). Wolff does not disclose height-adjustable feet. Grzesnikowski teaches a height-adjustable leg (Fig 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have added the height-adjustable leg of Grzesnikowski

to the tanning lamp of Wolff in order to adjust the height of the tanning lamp to accommodate different sized users.

Regarding claims 7 and 14, Wolff discloses the tanning lamp according to claim 1 and claim 11, as applied above. The limitation of curved end portions to define front rims having a rounded profile would have been an obvious design choice for one of ordinary skill in the art at the time the invention was made. Where the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular arrangement, the particular arrangement is deemed to have been a design consideration within the skill of the art. Furthermore, a change in the shape of a prior art device is a design consideration within the skill of the art.

Regarding claim 20, Wolff discloses the tanning lamp according to claim 18, wherein the panel is a box-type body being shaped as flat parallelepiped (column 6 lines 37-38) with a rectangular section comprising a rear wall (13), a first (14) and respectively second (11) side wall, a top wall (15) and a bottom wall (12) and defining a space, in which the UV radiation source is housed (Fig 1), a plurality of support feet (50) being associated with the bottom wall of the box-type body. Wolff does not disclose height-adjustable support feet. Grzesnikowski teaches a height-adjustable leg (Fig 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have added the height-adjustable leg of Grzesnikowski to the tanning lamp of Wolff in order to adjust the height of the tanning lamp to accommodate different sized users.

Double Patenting

Applicant is advised that should claims 5 and 6 be found allowable, claims 11 and 13, respectively, will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline Papapietro whose telephone number is (571) 272-1546. The examiner can normally be reached on M-F 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jacqueline Papapietro
Art Unit 3739



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